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(Original Signature of Member)

112TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To provide the Consumer Product Safety Commission with greater authority and discretion in enforcing the consumer product safety laws, and for other purposes.

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**IN THE HOUSE OF REPRESENTATIVES**

Mrs. BONO MACK (for herself and Mr. BUTTERFIELD) introduced the following bill; which was referred to the Committee on

\_\_\_\_\_  
**A BILL**

To provide the Consumer Product Safety Commission with greater authority and discretion in enforcing the consumer product safety laws, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. LIMITATION ON LEAD IN CHILDREN'S PROD-**  
4       **UCTS.**

5       (a) PROSPECTIVE APPLICATION OF LEAD LIMIT FOR  
6       CHILDREN'S PRODUCTS.—Section 101(a) of the Con-  
7       sumer Product Safety Improvement Act of 2008 (15

1 U.S.C. 1278a(a)) is amended by adding at the end the  
2 following:

3 “(3) APPLICATION.—Each limit set forth in  
4 paragraph (2) (except for the limit set forth in sub-  
5 paragraphs (A) and (B)) shall apply only to a chil-  
6 dren’s product (as defined in section 3(a) of the  
7 Consumer Product Safety Act (15 U.S.C. 2052(a)))  
8 that is manufactured after the effective date of such  
9 respective limit.”.

10 (b) ALTERNATIVE LIMITS AND EXCEPTIONS.—Sec-  
11 tion 101(b) of such Act (15 U.S.C. 1278a(b)(1)) is  
12 amended—

13 (1) by striking paragraph (1) and inserting the  
14 following:

15 “(1) FUNCTIONAL PURPOSE EXCEPTION.—

16 “(A) IN GENERAL.—The Commission, on  
17 its own initiative or upon petition by an inter-  
18 ested party, shall grant an exception to the  
19 limit in subsection (a) for a specific product,  
20 class of product, material, or component part if  
21 the Commission, after notice and a hearing, de-  
22 termines that—

23 “(i) the product, class of product, ma-  
24 terial, or component part requires the in-  
25 clusion of lead because it is not practicable

1 or not technologically feasible to manufac-  
2 ture such product, class of product, mate-  
3 rial, or component part, as the case may  
4 be, in accordance with subsection (a) by  
5 removing the excessive lead or by making  
6 the lead inaccessible;

7 “(ii) the product, class of product,  
8 material, or component part is not likely to  
9 be placed in the mouth or ingested, taking  
10 into account normal and reasonably fore-  
11 seeable use and abuse of such product,  
12 class of product, material, or component  
13 part by a child; and

14 “(iii) an exception for the product,  
15 class of product, material, or component  
16 part will have no measurable adverse effect  
17 on public health or safety, taking into ac-  
18 count normal and reasonably foreseeable  
19 use and abuse.

20 “(B) MEASUREMENT.—For purposes of  
21 subparagraph (A)(iii), there is no measurable  
22 adverse effect on public health or safety if the  
23 exception described in subparagraph (A) will re-  
24 sult in no measurable increase in blood lead lev-  
25 els. The Commission may adopt an alternative

1 method of measurement other than blood lead  
2 levels if it determines, after notice and a hear-  
3 ing, that such alternative method is a better  
4 scientific method for measuring adverse effect  
5 on public health and safety.

6 “(C) PROCEDURES FOR GRANTING EXCEP-  
7 TION.—

8 “(i) BURDEN OF PROOF.—A party  
9 seeking an exception under subparagraph  
10 (A) has the burden of demonstrating that  
11 it meets the requirements of such subpara-  
12 graph.

13 “(ii) GROUNDS FOR DECISION.—In  
14 the case where a party has petitioned for  
15 an exception, in determining whether to  
16 grant the exception, the Commission may  
17 base its decision solely on the materials  
18 presented by the party seeking the excep-  
19 tion and any materials received through  
20 notice and a hearing.

21 “(iii) ADMISSIBLE EVIDENCE.—In  
22 demonstrating that it meets the require-  
23 ments of subparagraph (A), a party seek-  
24 ing an exception under such subparagraph  
25 may rely on any nonproprietary informa-

1           tion submitted by any other party seeking  
2           such an exception and such information  
3           shall be considered part of the record pre-  
4           sented by the party that relies on that in-  
5           formation.

6           “(iv) SCOPE OF EXCEPTION.—If an  
7           exception is sought for an entire product,  
8           the burden is on the petitioning party to  
9           demonstrate that the criteria in subpara-  
10          graph (A) are met with respect to every ac-  
11          cessible component or accessible material  
12          of the product.

13          “(D) LIMITATION ON EXCEPTION.—If the  
14          Commission grants an exception for a product,  
15          class of product, material, or component part  
16          under subparagraph (A), the Commission may,  
17          as necessary to protect public health or safe-  
18          ty—

19               “(i) establish a lead limit that such  
20               product, class of product, material, or com-  
21               ponent part may not exceed; or

22               “(ii) place a manufacturing expiration  
23               date on such exception or establish a  
24               schedule after which the manufacturer of  
25               such product, class of product, material, or

1 component part shall be in full compliance  
2 with the limit established under clause (i)  
3 or the limit set forth in subsection (a).

4 “(E) APPLICATION OF EXCEPTION.—An  
5 exception under subparagraph (A) for a prod-  
6 uct, class of product, material, or component  
7 part shall apply regardless of the date of manu-  
8 facture unless the Commission expressly pro-  
9 vides otherwise.

10 “(F) PREVIOUSLY SUBMITTED PETI-  
11 TIONS.—A party seeking an exception under  
12 this paragraph may rely on materials previously  
13 submitted in connection with a petition for ex-  
14 clusion under this section. In such cases, peti-  
15 tioners must notify the Commission of their in-  
16 tent to rely on materials previously submitted.  
17 Such reliance does not affect petitioners’ obliga-  
18 tion to demonstrate that they meet all require-  
19 ments of this paragraph as required by sub-  
20 paragraph (C)(i).”;

21 (2) in paragraph (2)(A), by striking “include  
22 to,” and inserting “include”; and

23 (3) by redesignating paragraph (5) as para-  
24 graph (8) and inserting after paragraph (4) the fol-  
25 lowing:

1           “(5) EXCEPTION FOR OFF-HIGHWAY VEHI-  
2 CLES.—

3           “(A) IN GENERAL.—Subsection (a) shall  
4 not apply to an off-highway vehicle.

5           “(B) OFF-HIGHWAY VEHICLE DEFINED.—  
6 For purposes of this section, the term ‘off-high-  
7 way vehicle’—

8           “(i) means any motorized vehicle—

9           “(I) that is manufactured pri-  
10 marily for use off public streets,  
11 roads, and highways;

12           “(II) designed to travel on 2, 3,  
13 or 4 wheels; and

14           “(III) that has either—

15           “(aa) a seat designed to be  
16 straddled by the operator and  
17 handlebars for steering control;  
18 or

19           “(bb) a nonstraddle seat,  
20 steering wheel, seat belts, and  
21 roll-over protective structure; and

22           “(ii) includes a snowmobile.

23           “(6) BICYCLES AND RELATED PRODUCTS.—In  
24 lieu of the lead limits established in subsection  
25 (a)(2), the limits set forth for each respective mate-

1       rial in the notice of the Commission entitled ‘Notice  
2       of Stay of Enforcement Pertaining to Bicycles and  
3       Related Products’, published June 30, 2009 (74  
4       Fed. Reg. 31254), shall apply to any metal compo-  
5       nent part of the products to which the stay of en-  
6       forcement described in such notice applies, except  
7       that after December 31, 2011, the limits set forth  
8       in such notice shall not be more than 300 parts per  
9       million total lead content by weight for any metal  
10      component part of the products to which such stay  
11      pertains.

12           “(7) EXCLUSION OF CERTAIN USED CHIL-  
13      DREN’S PRODUCTS.—

14           “(A) GENERAL EXCLUSION.—The lead  
15      limits established under subsection (a) shall not  
16      apply to a used children’s product.

17           “(B) DEFINITION.—The term ‘used chil-  
18      dren’s product’ means a children’s product (as  
19      defined in section 3(a) of the Consumer Prod-  
20      uct Safety Act (15 U.S.C. 2052(a)) that was  
21      obtained by the seller for use and not for the  
22      purpose of resale or was obtained by the seller,  
23      either directly or indirectly, from a person who  
24      obtained such children’s product for use and  
25      not for the purpose of resale. Such term also in-



1 cludes a children’s product that was donated to  
2 the seller for charitable distribution or resale to  
3 support charitable purposes. Such term shall  
4 not include—

5 “(i) children’s metal jewelry;

6 “(ii) any children’s product for which  
7 the donating party or the seller has actual  
8 knowledge that the product is in violation  
9 of the lead limits in this section; or

10 “(iii) any other children’s product  
11 that the Commission determines, after no-  
12 tice and a hearing, presents an unreason-  
13 able risk to children’s health.

14 For purposes of this definition, the term ‘seller’  
15 includes a person who lends or donates a used  
16 children’s product.”.

17 **SEC. 2. APPLICATION OF THIRD PARTY TESTING REQUIRE-**  
18 **MENTS.**

19 (a) IN GENERAL.—Section 14(d) of the Consumer  
20 Product Safety Act (15 U.S.C. 2063(d)) is amended—

21 (1) in paragraph (2)(B)(ii), by striking “ran-  
22 dom” and inserting “representative”; and

23 (2) by adding at the end the following:

24 “(3) REDUCING THIRD PARTY TESTING BUR-  
25 DENS.—

1           “(A) ASSESSMENT.—Not later than 60  
2           days after the date of enactment of this para-  
3           graph, the Commission shall seek public com-  
4           ment on opportunities to reduce the cost of  
5           third party testing requirements consistent with  
6           assuring compliance with any applicable con-  
7           sumer product safety rule, ban, standard, or  
8           regulation. The request for public comment  
9           shall include the following:

10           “(i) The extent to which the use of  
11           materials subject to regulations of another  
12           government agency that requires third  
13           party testing of those materials may pro-  
14           vide sufficient assurance of conformity  
15           with an applicable consumer product safety  
16           rule, ban, standard, or regulation without  
17           further third party testing.

18           “(ii) The extent to which modification  
19           of the certification requirements may have  
20           the effect of reducing redundant third  
21           party testing by or on behalf of 2 or more  
22           importers of a product that is substantially  
23           similar or identical in all material respects.

24           “(iii) The extent to which products  
25           with a substantial number of different

1 components subject to third party testing  
2 may be evaluated to show compliance with  
3 an applicable rule, ban, standard, or regu-  
4 lation by third party testing of a subset of  
5 such components selected by a third party  
6 conformity assessment body.

7 “(iv) The extent to which manufactur-  
8 ers with a substantial number of substan-  
9 tially similar products subject to third  
10 party testing may reasonably make use of  
11 sampling procedures that reduce the over-  
12 all test burden without compromising the  
13 benefits of third party testing.

14 “(v) The extent to which evidence of  
15 conformity with other national or inter-  
16 national governmental standards may pro-  
17 vide assurance of conformity to consumer  
18 product safety rules, bans, standards, or  
19 regulations applicable under this Act.

20 “(vi) The extent to which technology,  
21 other than the technology already approved  
22 by the Commission, exists for third party  
23 conformity assessment bodies to test or to  
24 screen for testing consumer products sub-  
25 ject to a third party testing requirement.

1                   “(vii) Other techniques for lowering  
2                   the cost of third party testing consistent  
3                   with assuring compliance with the applica-  
4                   ble consumer product safety rules, bans,  
5                   standards, and regulations.

6                   “(B) REGULATIONS.—Following the public  
7                   comment period described in subparagraph (A),  
8                   but not later than 1 year after the date of en-  
9                   actment of this paragraph, the Commission  
10                  shall review the public comments and may pre-  
11                  scribe new or revised third party testing regula-  
12                  tions if it determines that such regulations will  
13                  reduce third party testing costs consistent with  
14                  assuring compliance with the applicable con-  
15                  sumer product safety rules, bans, standards,  
16                  and regulations.

17                  “(C) REPORT.—If the Commission deter-  
18                  mines that it lacks authority to implement an  
19                  opportunity for reducing the costs of third-  
20                  party testing consistent with assuring compli-  
21                  ance with the applicable consumer product safe-  
22                  ty rules, bans, standards, and regulations, it  
23                  shall transmit a report to Congress reviewing  
24                  those opportunities, along with any rec-

1           ommendations for any legislation to permit  
2           such implementation.

3           “(4) SPECIAL RULES FOR SMALL BATCH MANU-  
4           FACTURERS.—

5           “(A) SPECIAL CONSIDERATION; EXEMP-  
6           TION.—

7           “(i) CONSIDERATION; ALTERNATIVE  
8           REQUIREMENTS.—Subject to subparagraph  
9           (C), in implementing third party testing  
10          requirements under this section, the Com-  
11          mission shall take into consideration any  
12          economic, administrative, or other limits  
13          on the ability of small batch manufacturers  
14          to comply with such requirements and  
15          shall, after notice and a hearing, provide  
16          alternative testing requirements for cov-  
17          ered products manufactured by small batch  
18          manufacturers in lieu of those required  
19          under subsection (a) or (b). Any such al-  
20          ternative requirements shall provide for  
21          reasonable methods to assure compliance  
22          with any applicable consumer product safe-  
23          ty rule, ban, standard, or regulation. The  
24          Commission may allow such alternative  
25          testing requirements for small batch manu-

1           facturers with respect to a specific product  
2           or product class or with respect to a spe-  
3           cific safety rule, ban, standard, or regula-  
4           tion, or portion thereof.

5           “(ii) EXEMPTION.—If the Commission  
6           determines that no alternative testing re-  
7           quirement is available or economically  
8           practicable, it shall exempt small batch  
9           manufacturers from third party testing re-  
10          quirements under subsections (a) and (b).

11          “(iii) CERTIFICATION.—In lieu of or  
12          as part of any alternative testing require-  
13          ments provided under clause (i), the Com-  
14          mission may allow certification of a prod-  
15          uct to an applicable consumer product  
16          safety rule, ban, standard, or regulation, or  
17          portion thereof, based on documentation  
18          that the product complies with another na-  
19          tional or international governmental stand-  
20          ard or safety requirement that the Com-  
21          mission determines is the same or more  
22          stringent than the consumer product safety  
23          rule, ban, standard, or regulation, or por-  
24          tion thereof. Any such certification shall  
25          only be allowed to the extent of the equiva-

1 lency with a consumer product safety rule,  
2 ban, standard, or regulation and not to  
3 any other part of the consumer product  
4 safety rule, ban, standard, or regulation.

5 “(iv) RESTRICTION.—Except as pro-  
6 vided in subparagraph (C), and except  
7 where the Commission determines that the  
8 manufacturer does not meet the definition  
9 of a small batch manufacturer, for any  
10 small batch manufacturer registered pursu-  
11 ant to subparagraph (B), the Commission  
12 may not require third party testing of a  
13 covered product by a third party con-  
14 formity assessment body until the Commis-  
15 sion has provided either an alternative  
16 testing requirement or an exemption in ac-  
17 cordance with clause (i) or (ii), respec-  
18 tively.

19 “(B) REGISTRATION.—Any small batch  
20 manufacturer that utilizes alternative require-  
21 ments or an exemption under this paragraph  
22 shall register with the Commission prior to  
23 using such alternative requirements or exemp-  
24 tions pursuant to any guidelines issued by the  
25 Commission to carry out this requirement.

1           “(C) LIMITATION.—The Commission shall  
2           not provide or permit to continue in effect any  
3           alternative requirements or exemption from  
4           third party testing requirements under this  
5           paragraph where it determines, based on notice  
6           and a hearing, that full compliance with sub-  
7           section (a) or (b) is reasonably necessary to  
8           protect public health or safety. The Commission  
9           shall not provide any alternative requirements  
10          or exemption for—

11                 “(i) any of the third party testing re-  
12                 quirements described in clauses (i) through  
13                 (v) of subsection (a)(3)(B); or

14                 “(ii) durable infant or toddler prod-  
15                 ucts, as defined in section 104(f) of the  
16                 Consumer Product Safety Improvement  
17                 Act of 2008 (15 U.S.C. 2056a(f)).

18           “(D) DEFINITIONS.—For purposes of this  
19          paragraph—

20                 “(i) the term ‘covered product’ means  
21                 a consumer product manufactured by a  
22                 small batch manufacturer where no more  
23                 than 10,000 units of the same product  
24                 were manufactured in the previous cal-  
25                 endar year; and



1                   “(ii) the term ‘small batch manufac-  
2                   turer’ means a manufacturer that had no  
3                   more than \$1,000,000 in total gross rev-  
4                   enue from sales of all consumer products  
5                   in the previous calendar year. The dollar  
6                   amount contained in this paragraph shall  
7                   be adjusted annually by the percentage in-  
8                   crease in the Consumer Price Index for all  
9                   urban consumers published by the Depart-  
10                  ment of Labor.

11                 For purposes of determining the total gross rev-  
12                 enue for all sales of all consumer products of a  
13                 manufacturer under this subparagraph, such  
14                 total gross revenue shall be considered to in-  
15                 clude all gross revenue from all sales of all con-  
16                 sumer products of each entity that controls, is  
17                 controlled by, or is under common control with  
18                 such manufacturer. The Commission shall take  
19                 steps to ensure that all relevant business affili-  
20                 ations are considered in determining whether or  
21                 not a manufacturer meets this definition.

22                 “(5) EXCLUSION FROM THIRD PARTY TEST-  
23                 ING.—

24                 “(A) CERTAIN PRINTED MATERIALS.—

1 “(i) IN GENERAL.—The third party  
2 testing requirements established under  
3 subsection (a) shall not apply to ordinary  
4 books or ordinary paper-based printed ma-  
5 terials.

6 “(ii) DEFINITIONS.—

7 “(I) ORDINARY BOOK.—The term  
8 ‘ordinary book’ means a book printed  
9 on paper or cardboard, printed with  
10 inks or toners, and bound and fin-  
11 ished using a conventional method,  
12 and that is intended to be read or has  
13 educational value. Such term does not  
14 include books with inherent play  
15 value, and does not include any toy or  
16 other article that is not a book that is  
17 sold or packaged with an ordinary  
18 book.

19 “(II) ORDINARY PAPER-BASED  
20 PRINTED MATERIALS.—The term ‘or-  
21 dinary paper-based printed materials’  
22 means materials printed on paper or  
23 cardboard, such as magazines, post-  
24 ers, greeting cards, and similar prod-  
25 ucts, that are printed with inks or

1                   toners and bound and finished using a  
2                   conventional method.

3                   “(III) EXCLUSIONS.—Such terms  
4                   do not include books or printed mate-  
5                   rials that contain components that are  
6                   printed on material other than paper  
7                   or cardboard or contain nonpaper-  
8                   based components such as metal or  
9                   plastic parts or accessories that are  
10                  not part of the binding and finishing  
11                  materials used in a conventional  
12                  method.

13                  “(B) METAL COMPONENT PARTS OF BICY-  
14                  CLES.—The third party testing requirements  
15                  established under subsection (a) shall not apply  
16                  to metal component parts of bicycles with re-  
17                  spect to compliance with the lead content limits  
18                  in place pursuant to section 101(b)(6) of the  
19                  Consumer Product Safety Improvement Act of  
20                  2008.”.

21                  (b) PROHIBITED ACT.—Section 19(a)(14) of the  
22                  Consumer Product Safety Act (15 U.S.C. 2068(a)(14)) is  
23                  amended by striking the period and inserting “, or to sub-  
24                  divide the production of any children’s product into small

1 quantities in order to evade any third party testing re-  
2 quirements under section 14(a)(2);”.

3 **SEC. 3. APPLICATION OF AND PROCESS FOR UPDATING DU-**  
4 **RABLE NURSERY PRODUCTS STANDARDS.**

5 (a) UPDATING STANDARD.—Section 104(b) of the  
6 Consumer Product Safety Improvement Act of 2008 (15  
7 U.S.C. 2056a(b)) is amended by adding at the end the  
8 following:

9 “(4) PROCESS FOR CONSIDERING SUBSEQUENT  
10 REVISIONS TO VOLUNTARY STANDARD.—

11 “(A) NOTICE OF ADOPTION OF VOL-  
12 UNTARY STANDARD.—When the Commission  
13 promulgates a consumer product safety stand-  
14 ard under this subsection that is based, in  
15 whole or in part, on a voluntary standard, the  
16 Commission shall notify the organization that  
17 issued the voluntary standard of the Commis-  
18 sion’s action and shall provide a copy of the  
19 consumer product safety standard to the orga-  
20 nization.

21 “(B) COMMISSION ACTION ON REVISED  
22 VOLUNTARY STANDARD.—If an organization re-  
23 vises a standard that has been adopted, in  
24 whole or in part, as a consumer product safety  
25 standard under this subsection, it shall notify

1           the Commission. The revised voluntary stand-  
2           ard shall be considered to be a consumer prod-  
3           uct safety standard issued by the Commission  
4           under section 9 of the Consumer Product Safe-  
5           ty Act (15 U.S.C. 2058), effective 180 days  
6           after the date on which the organization notifies  
7           the Commission (or such later date specified by  
8           the Commission in the Federal Register) unless,  
9           within 90 days after receiving that notice, the  
10          Commission notifies the organization that it has  
11          determined that the proposed revision does not  
12          improve the safety of the consumer product cov-  
13          ered by the standard and that the Commission  
14          is retaining the existing consumer product safe-  
15          ty standard.”.

16          (b) APPLICATION OF STANDARD.—Section 104(c) of  
17          the Consumer Product Safety Improvement Act of 2008  
18          (15 U.S.C. 2056a(c)) is amended by redesignating para-  
19          graph (3) as paragraph (4) and inserting after paragraph  
20          (2) the following:

21                 “(3) APPLICATION OF ANY REVISION.—With re-  
22          spect to any revision of the standard promulgated  
23          under subsection (b)(1)(B) subsequent to the initial  
24          promulgation of a standard under such subsection,  
25          paragraph (1) shall apply only to a person that man-

1 manufactures or imports cribs, unless the Commission  
2 determines that application to any other person de-  
3 scribed in paragraph (2) is necessary to protect  
4 against an unreasonable risk to health or safety. If  
5 the Commission determines that application to a  
6 person described in paragraph (2) is necessary, it  
7 shall provide not less than 12 months for such per-  
8 son to come into compliance.”.

9 **SEC. 4. APPLICATION OF SECTION 106 TO FDA-REGULATED**  
10 **PRODUCTS.**

11 Section 106(a) of the Consumer Product Safety Im-  
12 provement Act of 2008 (15 U.S.C. 2056b(a)) is amended  
13 by inserting “or any provision that restates or incor-  
14 porates a regulation promulgated by the Food and Drug  
15 Administration or any statute administered by the Food  
16 and Drug Administration” after “or by statute”.

17 **SEC. 5. APPLICATION OF PHTHALATES LIMIT.**

18 (a) ACCESSIBLE, PLASTICIZED COMPONENT  
19 PARTS.—Section 108 of the Consumer Product Safety Im-  
20 provement Act of 2008 (15 U.S.C. 2057c) is amended—

21 (1) by redesignating subsections (c) through (e)  
22 as subsections (e) through (g), respectively; and

23 (2) by inserting after subsection (b) the fol-  
24 lowing:

1       “(c) APPLICATION.—Effective on the date of enact-  
2 ment of this Act, subsections (a) and (b)(1) and any rule  
3 promulgated under subsection (b)(3) shall apply to any  
4 plasticized component part of a children’s toy or child care  
5 article or any other component part of a children’s toy  
6 or child care article that is made of other materials that  
7 may contain phthalates.

8       “(d) EXCLUSION FOR INACCESSIBLE COMPONENT  
9 PARTS.—

10       “(1) IN GENERAL.—The prohibitions estab-  
11 lished under subsections (a) and (b) shall not apply  
12 to any component part of a children’s toy or child  
13 care article that is not accessible to a child through  
14 normal and reasonably foreseeable use and abuse of  
15 such product, as determined by the Commission. A  
16 component part is not accessible under this para-  
17 graph if such component part is not physically ex-  
18 posed by reason of a sealed covering or casing and  
19 does not become physically exposed through reason-  
20 ably foreseeable use and abuse of the product. Rea-  
21 sonably foreseeable use and abuse shall include swal-  
22 lowing, mouthing, breaking, or other children’s ac-  
23 tivities, and the aging of the product.

24       “(2) LIMITATION.—The Commission may re-  
25 voke an exclusion or all exclusions granted under

1 paragraph (1) at any time and require that any or  
2 all component parts manufactured after such exclu-  
3 sion is revoked comply with the prohibitions estab-  
4 lished under subsections (a) and (b) if the Commis-  
5 sion finds, based on scientific evidence, that such  
6 compliance is necessary to protect the public health  
7 or safety.

8 “(3) INACCESSIBILITY PROCEEDING.—Within 1  
9 year after the date of enactment of this subsection,  
10 the Commission shall—

11 “(A) promulgate a rule providing guidance  
12 with respect to what product components, or  
13 classes of components, will be considered to be  
14 inaccessible for purposes of paragraph (1); or

15 “(B) adopt the same guidance with respect  
16 to inaccessibility that was adopted by the Com-  
17 mission with regards to accessibility of lead  
18 under section 101(b)(2)(B), with additional  
19 consideration, as appropriate, of whether such  
20 component can be placed in a child’s mouth.

21 “(4) APPLICATION PENDING COMMISSION GUID-  
22 ANCE.—Until the Commission promulgates a rule  
23 pursuant to paragraph (3), the determination of  
24 whether a product component is inaccessible to a  
25 child shall be made in accordance with the require-



1       ments laid out in paragraph (1) for considering a  
2       component to be inaccessible to a child.”.

3   **SEC. 6. AUTHORITY TO MODIFY TRACKING LABELS RE-**  
4       **QUIREMENT.**

5       Section 14(a)(5) of the Consumer Product Safety Act  
6   (15 U.S.C. 2063(a)(5)) is amended—

7           (1) by striking “Effective 1 year” and inserting  
8       “(A) Effective 1 year”;

9           (2) by redesignating subparagraphs (A) and  
10       (B) as clauses (i) and (ii), respectively; and

11          (3) by adding at the end the following:

12       “(B) The Commission may, by regulation, exclude a  
13   specific product or class of products from the require-  
14   ments in subparagraph (A) if the Commission determines  
15   that it is not practicable for such product or class of prod-  
16   ucts to bear the marks required by such subparagraph.  
17   The Commission may establish alternative requirements  
18   for any product or class of products excluded under the  
19   preceding sentence consistent with the purposes described  
20   in clauses (i) and (ii) of subparagraph (A).”.

21   **SEC. 7. IMPROVED PRODUCT IDENTIFICATION FOR PUBLIC**  
22       **DATABASE.**

23       Section 6A(c) of the Consumer Product Safety Act  
24   (15 U.S.C. 2055a(c)) is amended—

1 (1) in paragraph (3)(A), by inserting “or para-  
2 graph (5)” after “paragraph (4)(A)”;

3 (2) in paragraph (4)(A), by striking “deter-  
4 mines that the information in such report or com-  
5 ment is materially inaccurate, the Commission  
6 shall—” and inserting “receives notice that the in-  
7 formation in such report or comment is materially  
8 inaccurate, the Commission shall stay the publica-  
9 tion of the report on the database as required under  
10 paragraph (3) for a period of 5 additional days.  
11 Thereafter, if the Commission determines that the  
12 information in such report or comment is materially  
13 inaccurate, the Commission shall—”; and

14 (3) by adding at the end the following new  
15 paragraph:

16 “(5) OBTAINING CERTAIN PRODUCT IDENTI-  
17 FICATION INFORMATION.—

18 “(A) IN GENERAL.—If the Commission re-  
19 ceives a report described in subsection (b)(1)(A)  
20 that does not include the model or serial num-  
21 ber of the consumer product concerned, the  
22 Commission shall seek from the individual or  
23 entity submitting the report such model or se-  
24 rial number or, if such model or serial number  
25 is not available, a photograph of the product. If

1           the Commission obtains information relating to  
2           the serial or model number of the product or a  
3           photograph of the product, it shall immediately  
4           forward such information to the manufacturer  
5           of the product. The Commission shall make the  
6           report available in the database on the 15th  
7           business day after the date on which the Com-  
8           mission transmits the report under paragraph  
9           (1) and shall include in the database any addi-  
10          tional information about the product obtained  
11          under this paragraph.

12                 “(B) RULE OF CONSTRUCTION.—Nothing  
13          in this paragraph shall be construed to—

14                         “(i) permit the Commission to delay  
15                         transmission of the report under para-  
16                         graph (1) until the Commission has ob-  
17                         tained the model or serial number or a  
18                         photograph of the consumer product con-  
19                         cerned; or

20                         “(ii) make inclusion in the database of  
21                         a report described in subsection (b)(1)(A)  
22                         contingent on the availability of the model  
23                         or serial number or a photograph of the  
24                         consumer product concerned.”.

1 **SEC. 8. SUBPOENA AUTHORITY.**

2 Section 27(b) of the Consumer Product Safety Act  
3 (15 U.S.C. 2076(b)) is amended—

4 (1) in paragraph (3), by inserting “and phys-  
5 ical” after “documentary”;

6 (2) in paragraph (8), by striking “and”;

7 (3) by redesignating paragraph (9) as para-  
8 graph (10) and inserting after paragraph (8) the fol-  
9 lowing:

10 “(9) to delegate to the general counsel of the  
11 Commission the authority to issue subpoenas solely  
12 to Federal, State, or local government agencies for  
13 evidence described in paragraph (3); and”; and

14 (4) in paragraph (10) (as so redesignated), by  
15 inserting “(except as provided in paragraph (9))”  
16 after “paragraph (3)”.

17 **SEC. 9. TECHNICAL AMENDMENTS.**

18 (a) CPSA.—Section 14 of the Consumer Product  
19 Safety Act (15 U.S.C. 2063) is further amended by redes-  
20 ignating the second subsection (d) as subsection (i).

21 (b) CPSIA.—Section 101(a)(1) of the Consumer  
22 Product Safety Improvement Act of 2008 (15 U.S.C.  
23 1278a(a)(1)) is amended by striking “(as defined in sec-  
24 tion 3(a)(16) of the Consumer Product Safety Act (15  
25 U.S.C. 2052(a)(16)))” and inserting “(as defined in sec-

1 tion 3(a) of the Consumer Product Safety Act (15 U.S.C.  
2 2052(a)))”.

3 **SEC. 10. EFFECTIVE DATE.**

4 Except as provided otherwise, the amendments made  
5 by this Act shall take effect on the date of enactment of  
6 this Act.